

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE AT CHATTANOOGA

KENNETH ANDREW COLBAUGH,  
Individually and as Surviving Spouse  
of Tabatha Marie Colbaugh f/k/a  
Tabatha Marie Smith (Deceased), JE  
through next friend JH, NR through  
next friend SR, and LC  
through next friend EH,

No. 1:24-cv-00151

Plaintiffs,

v.

MEIGS COUNTY, *et al.*,

Defendants.

Hon. Clifton L. Corker

Mag. Christopher H. Steger

CONSOLIDATED WITH THE  
SMITH CASE BELOW

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NATHAN ALEXANDER SMITH,

Plaintiffs,

No. 1:24-cv-00104

v.

MEIGS COUNTY, *et al.*,

Defendants.

Hon. Clifton L. Corker

Mag. Christopher H. Steger

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**COLBAUGH PLAINTIFFS MEMORANDUM OF SUPPLEMENTAL  
AUTHORITY ON SMITH PLAINTIFF'S MOTION TO INTERVENE POST  
EVIDENTIARY HEARING**

This matter having been before the Court November 18, 2024, and the Court  
having presided over the evidentiary hearing and posing questions thereafter;

Colbaugh Plaintiffs respectfully submit the following responsive authority for the Court's consideration in addition to that which was provided to the Court and the hearing:

1. The grounds for divorce statute states that, to constitute abandonment a spouse must have turned the other out of the home for "no just cause; and has refused or neglected to provide for the spouse while having the ability to so provide." T.C.A. § 36-4-101(a)(13).
2. As used in the code, undefined words shall be given their natural and ordinary meaning without forced or subtle construction that would limit or extend the meaning of the language, except when a contrary intention is clearly manifest. T.C.A. § 36-4-101.
3. Certain grounds for divorce are continuing in the sense that once the fault has arisen it continues to exist through mere passivity of the wrongdoer, such as habitual intoxication contracted after the marriage and abandonment. *Holman v. Holman*, 35 Tenn App 273 (1951).
4. Action by widow of deceased against bus company for wrongful death of husband could not be enjoined by father of deceased on ground that widow had been guilty of adulterous conduct prior to death of deceased. *Johnson v. Morgan* 184 Tenn 254 (1947).

5. That widow had been indiscreet or committed a crime does not affect her prior right to sue. *Koontz v. Fleming* 17 Tenn App 1 (1933).
6. Moral worth of nominal plaintiff and ultimate beneficiary is totally unrelated to a wrongful death action as it is the right of action the deceased would have had, had he survived. *Tutor v. Bingham*, 545 SW 2d 944 (1976).

Respectfully submitted,

Date: November 19, 2024

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## **CERTIFICATE OF SERVICE**

I hereby certify that on November 19, 2024, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system which will send notification of such filing to all parties that are CM/ECF participants in this action.

OLIVER BELL GROUP

By: /s/ Alyson Oliver  
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